S.B. CIVIL WRIT PETITION NO. 6634/2006.
(HEERA LAL VS. LABOUR COURT & ANR.)
DATE OF ORDER : 07.12.2006.

HON'BLE MR. GOVIND MATHUR, J.

Mr. K.K. Vyas for the petitioner.

By this petition for writ, a challenge is given to the award dated 07.08.2006 passed by the Labour Court, Jodhpur answering the reference made to it by the appropriate government under a notification dated 12.12.2003 to the effect that as to whether the initiation of industrial dispute by the workman after a lapse of 14 and 1/2 years is proper and if it is so, then as to whether his termination from his service by the Assistant Engineer (Irrigation), Sub Division, Pali w.e.f. 11.08.1987 is proper and valid, if not then, for what relief the workman is entitled. The Labour Court beside the other issues of the case also held that there was no just and valid reason for raising the industrial dispute after a lapse of 14 and 1/2 years. Being aggrieved by the same, this petition for writ is preferred.

It is contended by counsel for the petitioner that due to his illness and because of death of his wife delay caused in raising industrial dispute. The Labour Court considered the reasons given above while considering the issue relating to delay and found it not a just reason to entertain the industrial dispute at a belated stage.

Learned counsel for the petitioner to substantiate the contention with regard to delay, also placed reliance upon judgments of this Court rendered in the case of M/s. Jodhpur Sahkari Upbhokata Wholesale Bhandar Ltd. vs. State of Rajasthan and ors. reported in 2006 Labour Industrial Cases – 3422 and in the case of State of Rajasthan and Anr. vs. Ramniwas and another reported in 2006 Labour Industrial Cases 3481. In the case of M/s. Jodhpur Sahkari Upbhokata Wholesale Bhandar Ltd. (supra), while making an order of reinstatement of the workman, also allowed the back wages to the workman concerned. Being aggrieved by the same, M/s. Jodhpur Sahkari Upbhokata Wholesale Bhandar Ltd. preferred a writ petition and while disposing of that writ petition, learned Single Judge of this Court denied back wages to the workman on the count of delay in raising industrial dispute. As a matter of fact, in the case of M/s. Jodhpur Sahkari Upbhokata Wholesale Bhandar Ltd. (supra), the industrial dispute was adjudicated on merits and an order of reinstatement with back wages were also given, therefore, the Court to settle the equities, declined to make payment of back wages to the workman. In the aforesaid matter, the question with regard to delay in raising the industrial dispute was not referred to the Labour Court for adjudication, therefore, the same is having no application in the present case.

Similarly in the case of State of Rajasthan and another vs. Ramniwal and anr., the Labour Court while answering the reference made to it, passed an order directing the employer to reinstate the workman with complete back wages though the dispute was raised at a belated stage. In the aforesaid case also the Court found that in the event of delay in raising the dispute, there was no occasion for the Labour Court to direct the employer for reinstatement with payment of complete back wages and, therefore, only a lump sum compensation was awarded. No issue there was before the Labour Court pertaining to delay before the Labour Court. In the instant matter, the Labour Court reached at a specific conclusion that there was no just and valid reason for raising an industrial dispute after a lapse of 14 and 1/2 years and, therefore, there was no question of granting any relief to the workman. The finding given by the Court is based on sound appreciation of the facts available.

I do not find any error in the order impugned that may warrant interference by this Court under Article 226 and 227 of the Constitution of India. Accordingly, this petition for writ is dismissed.

(GOVIND MATHUR)J.

Anil/